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UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA – SAN JOSE DIVISION

MONICA MENDOZA,

Plaintiff,

v.

Equifax, Inc.; Fresno County Federal
Credit Union and DOES 1 through 100
inclusive,

Defendants.

CASE NO.

COMPLAINT FOR DAMAGES:

1. Violation of Fair Credit Reporting Act;
2. Violation of California Consumer Credit Reporting Agencies Act;

COMES NOW Plaintiff **MONICA MENDOZA**, an individual, based on information and belief, to allege as follows:

INTRODUCTION

1. This case arises under the Fair Credit Reporting Act, 15 U.S.C. § 1681s-2(b), 15 U.S.C. § 1681e(b) and the California Consumer Credit Reporting Agencies Act, California Civil Code §1785.25(a). Plaintiff seeks redress for the unlawful and deceptive practices committed by the Defendants in connection with their inaccurate, misleading, or incomplete reporting of Plaintiff's debt included in Plaintiff's Chapter 13 bankruptcy.

2. This case involves Fresno County Federal Credit Union unilaterally and randomly reporting to Equifax Plaintiff's account included in bankruptcy as Charged off in May, June, and July of 2016.
3. The United States Congress has found the banking system is dependent upon fair and accurate credit reporting. Inaccurate credit reports directly impair the efficiency of the banking system, and unfair credit reporting methods undermine the public confidence, which is essential to the continued functioning of the banking system.
4. There exists today in the United States a pervasive and fundamental misunderstanding about the long term impact filing a consumer bankruptcy has on a consumer's credit worthiness. Specifically, many consumers believe that because a bankruptcy can be reported on their credit report for ten years their credit worthiness will be ruined for the same length of time. This is not true.
5. The *majority* of consumer Debtors who file consumer bankruptcy do so to *raise* their FICO Score and remedy their poor credit worthiness.
6. It is entirely possible for consumer Debtors to have over a 700 FICO Score within as little as 12 months after filing a consumer bankruptcy (Chapter 7 or Chapter 13).
7. Creditors and lending institutions are aware of the misconception that filing a consumer bankruptcy destroys a consumer's credit worthiness for ten years.
8. In an effort to perpetuate the aforementioned bankruptcy myth, creditors intentionally and routinely report accounts inaccurately.
9. Creditors know that by reporting accounts inaccurately consumers will have difficulty raising their credit scores and improving their credit worthiness.
10. These credit reporting issues are most prevalent in Chapter 13 bankruptcy filings.
11. Consequently, in the United States today it is objectively worse for consumers' credit worthiness to file Chapter 13 and pay back some or all of their debt, as opposed to filing Chapter 7 liquidation where Creditors generally receive nothing.
12. This was not the intent of Congress when enacting the Fair Credit Reporting Act and the Bankruptcy Abuse Prevention and Consumer Protection Act.

JURISDICTION & VENUE

13. Plaintiff re-alleges and incorporates herein by this reference the allegations in each and every paragraph above, fully set forth herein.

1 14. This Court has jurisdiction under 28 U.S.C. §§ 1331, 1337, and 1367, and 15 U.S.C. §
2 1681

3 15. This venue is proper pursuant to 28 U.S.C. §1391(b).

4 **GENERAL ALLEGATIONS**

5 16. Plaintiff alleges that defendant data furnisher was included in Plaintiff's Chapter 13
6 bankruptcy filing.

7 17. Plaintiff alleges that each and every Defendant is familiar with credit reporting industry
8 standards and subscribes thereto.

9 18. Plaintiff alleges that each and every Defendant understands that deviation from credit
10 reporting industry standards can and often does result in denial of credit, higher interest
11 rates, and prompts those making credit decisions to draw a more negative inference
12 from the reported data than if the Defendant reported in accordance with the recognized
13 industry standard.

14 19. Plaintiff alleges that all actions alleged herein by Defendants were done knowingly,
15 intentionally, and in reckless disregard for credit reporting industry standards in an
16 attempt to purposefully undermine Plaintiff's ability to reorganize and repair Plaintiff's
17 FICO Score.

18 20. In the alternative Plaintiff alleges that each and every Defendant's actions was the
19 result of reckless policies and procedures that inevitably led to inaccurate, misleading,
20 or incomplete credit reporting.

21 **FICO, Inc.**

22 21. FICO is a leading analytics software company with its principal headquarters located in
23 San Jose California. FICO has over 130 patents related to their analytics and decision
24 management technology, and regularly uses mathematical algorithms to predict
25 consumer behavior including credit risk.

26 22. The FICO Score has become the standard measure of consumer credit risk in the United
27 States and is used in ninety percent of lending decisions.

28 23. A FICO score consists of a three-digit number summarizing a consumer's credit risk or
likelihood to repay a loan. FICO periodically updates its scoring models resulting in
multiple FICO Score versions.

24. Base FICO Scores range from 300 to 850, while industry-specific FICO Scores range from 250-900. A higher FICO Score demonstrates lower credit risk or less likelihood of default.
25. Different lenders use different versions of FICO Scores when evaluating a consumer's credit worthiness.
26. There are 28 FICO Scores that are commonly used by lenders.
27. A consumer's FICO Score is calculated based solely on information in consumer credit reports maintained at credit reporting agencies (CRAs).
28. The three largest CRAs are Experian Information Solutions, Inc.; Equifax, Inc. and Transunion, LLC.
29. FICO does not control what information is provided on a consumer's credit report. Instead, the scoring models or algorithms are based on the premise that information provided by the CRAs is accurate and complies with credit reporting industry standards.
30. There are five key factors that a FICO Score considers: 1) Payment History 2) Amount of Debt 3) Length of Credit History 4) New Credit and 5) Credit Mix.
31. Each of the five factors is weighted differently by FICO.
32. 35% of a consumer's FICO Score relates to payment history, 30% relates to the amount of debt, 15% relates to the length of credit history, 10% relates to new credit, and the last 10% relates to a consumer's credit mix or the different types of debts reported.
33. Payment history refers to whether a consumer has paid their bills in the past, on time, late or missed payments. The more severe, recent, and frequent the late payment information, the greater the impact on a FICO Score. Public record items such as bankruptcy, foreclosure, judgments, and wage garnishments are also considered part of a consumer's payment history.
34. In factoring the severity of delinquent payments a FICO Score considers how late the payment continues to be, how much is owed, how recently this occurred, and how many delinquent accounts exist.
35. Once a delinquent account has been remedied the longer the account stays current the more a consumer's FICO Score should increase.

1 36. FICO Scores are entirely dependent upon information provided by data furnishers
2 (DFs) to CRAs.

3 37. The FICO scoring formula treats both Chapter 7 and Chapter 13 Bankruptcies similarly
4 in terms of their impact on one's FICO Score. Specifically, both Chapters have the
5 same level of severity with respect to their FICO Score and for both, FICO uses the
6 FILING DATE to determine how long ago the bankruptcy took place.

7 **Metro 2**

8 38. The Consumer Data Industry Association is an international trade association
9 representing the consumer credit, mortgage reporting, employment and tenant screening
10 and collection service industries.

11 39. The credit reporting industry has adopted a standard electronic data reporting format
12 called the Metro 2 format. The Metro 2 format was developed by the CDIA in an effort
13 to universally report debts in a particular manner that is understood to be the most
14 accurate way in which to report a debt. Specifically, Metro 2 format was designed to
15 allow reporting of the most accurate and complete information on consumer's credit
16 history.

17 40. The CDIA's Metro 2 format is the credit reporting industry standard for accurate credit
18 reporting.

19 41. The credit reporting industry at large depends upon Metro 2 and the CDIA's
20 recommendations for reporting debt accurately.

21 42. The CDIA is *The* expert on accurate credit reporting. In support of this allegation
22 Plaintiff avers the following:

- 23 a. The CDIA offers a FCRA certificate program for all CRAs.
- 24 b. The CDIA offers a FCRA awareness program for all CRAs.
- 25 c. The CDIA offers a FCRA Certificate program for DFs.
- 26 d. The CDIA offers a FCRA awareness program for DFs.
- 27 e. The CDIA offers a Metro 2 Learning system to provide detailed instructions on
28 the use of Metro 2 format to ensure understanding of the reporting guidelines
for each field of the Metro 2 Format as well as the relationship between multiple
fields.

1 f. The CDIA hosts workshops developed and authorized by Equifax, Experian,
2 Innovis, and Transunion.

3 g. The CDIA developed a credit reporting resource guide for accurately reporting
4 credit.

5 43. The CDIA's Metro 2 is accepted by all CRAs.

6 44. The credit reporting accepted industry standards for reporting metro 2 accurately are
7 found in the CDIA's credit reporting resource guide (CRRG).

8 45. The CRRG outlines the industry standards for most accurately reporting debts using
9 Metro 2.

10 46. The CRRG is not readily available to the public. It can be purchased online for
\$229.45.

11 47. Even if a buyer is ready willing and able to pay for the CRRG, the CDIA will NOT
12 grant access to the guide unless the buyer represents an organization included in the
13 Metro 2 Access Policy.

14 48. When FICO calculates credit scores the algorithms use Metro 2 information based on
15 industry standards established by the CDIA.

16 49. The algorithms used by FICO in determining a consumer's credit score are premised on
17 the Metro 2 data received comporting with the CDIA's recommendations for accurate
18 credit reporting.

19 50. If the Metro 2 data received by FICO deviates from industry standards an inaccurate or
20 incorrect FICO Score results. If the resulting FICO Score is lower a consumer will be
21 considered a higher credit risk resulting in less favorable lending terms.

e-OSCAR

22 51. E-OSCAR is the web based Metro 2 compliant system developed by Experian
23 Information Solutions, Inc.; Equifax, Inc.; TransUnion, LLC and Innovis that enables
24 DFs and CRAs to create and respond to consumer credit disputes.

25 52. When a consumer sends a dispute letter to a CRA the CRA then sends an automated
26 credit dispute verification (ACDV) via e-Oscar to the DF.

27 53. The ACDV contains within it Metro 2 codes next to certain data fields associated with a
28 credit file e.g. "Account Type" "07" (07 in Metro 2 refers to a Charge Account).

Post Confirmation Credit Reporting Standards Regarding Balances and Ongoing Payments When All Borrowers File Chapter 13.

54. Post confirmation the accepted accurate credit reporting standard for monthly payments is the Chapter 13 plan payment amount.

55. Post confirmation the accepted accurate credit reporting standard for payment history is to report the Metro 2 indicator D each month.

56. Plaintiff alleges that the aforementioned industry standards are all readily available in the CRRG which each and every Defendant subscribes thereto.

Plaintiffs Bankruptcy Filing

57. Prior to filing Chapter 13, Plaintiff pulled a credit report on November 6, 2013 to ensure all outstanding debt was properly listed and scheduled in Plaintiff's petition.

58. The credit report was pulled from a third party vendor CIN Legal Data Services.

59. Plaintiff alleges that all the information contained within the November 6, 2013 CIN report was compiled by information gathered by CIN directly from the three major CRAs- Experian Information Solutions, Inc.; Equifax, Inc. and Trans Union, LLC.

60. Chapter 13 of the Bankruptcy Code is titled "Adjustment of Debts of an Individual with Regular Income."

61. Chapter 13 allows financially overextended individual debtors to make greater voluntary use of repayment plans commensurate with each debtor's abilities, as the most effective means of improving, first, debtor relief, and second creditor recoveries.

62. Whether a debtor uses Chapter 7, Liquidation, or Chapter 13, Adjustments of Debts of an individual, congress intended bankruptcy relief be effective and should provide the Debtor with a fresh start.

63. Post filing, Defendants would not accept payments directly from Plaintiff.

64. Post filing, Defendants were not anticipating receiving payments directly from Plaintiff.

65. Under the terms of the confirmed Chapter 13 plan, unsecured Creditors are allowed a 0% disbursement of their filed claims over the course of Plaintiff's plan.

66. Plaintiff's plan was confirmed on May 6, 2014.

67. Once confirmed the plan became a final judgment with respect to the party's rights and liabilities.

- 1 68. The res judicata effect of confirmation may be eliminated only if confirmation is
2 revoked or if the case is dismissed.
- 3 69. Confirmation of a plan prohibits actions by creditors inconsistent with the plan.
- 4 70. While confirmation of a plan is not a discharge it does **fix the terms** upon which claims
5 are to be settled and both a confirmation order and discharge order are final orders.
- 6 71. The CDIA recognizes the finality of confirmation orders and the aforementioned credit
7 reporting industry guidelines are specifically setup to harmonize the bankruptcy code
8 and credit reporting guidelines.
- 9 72. Federal Rules of Bankruptcy Procedure (“FRBP”) 3004 and 3021 mandate that
10 distributions to creditors are on allowed claims only.
- 11 73. A proof of claim must be filed in order for a claim to be allowed. 11 U.S.C §502(a).
- 12 74. Thus failure to file a proof of claim results in zero distributions to a creditor through the
13 plan.
- 14 75. In the case of an unsecured non priority claim failure to file a proof of claim sets the
15 terms of repayment at \$0.00 owed.
- 16 76. Item 1 of the official Proof of Claim form promulgated by the Supreme Court does not
17 acknowledge past due amounts on unsecured debts. The same proof of claim form,
18 however, specifically asks for and requires a secured creditor to list the arrearage/past
19 due amounts on a secured claim in item 4.
- 20 77. On May 14, 2015 Plaintiff ordered a three bureau credit report from Equifax, Inc. to
21 ensure proper reporting by Plaintiff’s Creditors.
- 22 78. Plaintiff noticed 11 different trade lines on the May 14, 2015 credit report all reporting
23 inaccurate, misleading, or incomplete information that did not comport with credit
24 reporting industry standards. Specifically, Defendants continued to inaccurately report
25 Plaintiff’s accounts as open, in collections, charged off, with late payments, with a
26 balance, and/or with a past due balance. Defendants also failed to notate that Plaintiff
27 was involved in bankruptcy.
- 28 79. In response, Plaintiff disputed the inaccurate tradelines (including defendant DF) via
certified mail with Experian Information Solutions, Inc.; Equifax, Inc.; and
TransUnion, LLC on July 11, 2016.

- 1 80. Plaintiff's dispute letter specifically put each Creditor on notice that Plaintiff had filed
2 for bankruptcy and the account was not reporting the bankruptcy accurately or worse
3 not at all. Plaintiff requested each Creditor investigate the proper way to report
4 Plaintiff's bankruptcy, post confirmation. Plaintiff requested for any derogatory
5 reporting to be updated. Plaintiff also noted that under *Gorman v. Wolpoff &*
6 *Abramson*, Plaintiff expected the accounts to be reported disputed if the Creditor
7 disagreed with Plaintiff's dispute.
- 8 81. Plaintiff is informed and believes that each CRA received Plaintiff's dispute letter and
9 in response sent Plaintiff's dispute to each DF via an ACDV through e-OSCAR.
- 10 82. On February 7, 2017 Plaintiff ordered a second three bureau credit report from Equifax,
11 Inc. to ensure Plaintiff's accounts had been updated.

12 **Inaccuracies**

- 13 83. Defendant Fresno County Federal Credit Union was reporting Plaintiff's account,
14 beginning in 4857xxxx, inaccurately. Specifically, despite the account not being
15 Charged off prior to Plaintiff filing bankruptcy and despite the account being actively
16 involved in a Chapter 13 plan, Defendant reported the account as Charged off in May,
17 June, and July of 2016.
- 18 84. Prior to May, June, and July of 2016 Defendant did not report the account as Charged
19 off.
- 20 85. After July of 2016 Defendant stopped reporting the account as Charged off!
- 21 86. Despite this, Defendant has steadfastly refused to remove the Charge Off notations
22 from Plaintiff's credit report for May, June, and July of 2016.
- 23 87. This despite the account not having been Charged off and in active bankruptcy status.
- 24 88. As described Defendant's reporting is entirely technically inaccurate or at the very least
25 misleading. Defendant has been wholly inconsistent with the reporting.
- 26 89. Defendant was not reporting the account as charged off prior to filing or even after the
27 case was filed. Then just all of the sudden in May-July 2016 Defendant reported the
28 account charged off. After July of 2016 Defendant stopped reporting the charge off
again.

Damages

90. Plaintiff pulled the credit report at issue at a cost of \$39.95, specifically for the sole purpose of verifying that the inaccuracies were fixed.
91. As a result of the incorrect reporting, Plaintiff has suffered economic loss, emotional harm, and excessive stress resulting in doubt as to the effectiveness of the Bankruptcy Code and the power of this Court to preserve and perpetuate a fresh start.
92. The actions of the Defendants as alleged herein are acts in violation of the Fair Credit Reporting Act, 15 U.S.C. § 1681s-2(b).
93. The actions of the Defendants as alleged herein are acts in violation of the Consumer Credit Reporting Agencies Act California Civil Code § 1785.25(a).

FIRST CAUSE OF ACTION

(Violation of Fair Credit Reporting Act 15 U.S.C. § 1681e(b))
Against Defendants and Does 1-100)

Equifax, Inc. – Failure to Assure Credit Reporting Accuracy.

94. Plaintiff realleges and incorporates herein the allegation in each and every paragraph above as though fully set forth herein.
95. Equifax, Inc. violated 15 U.S.C. § 1681e(b) by failing to establish and/or to follow reasonable procedures to assure maximum possible accuracy in the preparation of Plaintiff's credit reports and credit files it published and maintained concerning Plaintiff.
96. Had Equifax, Inc. maintained reasonable procedures to assure maximum accuracy Experian would never have allowed Defendant Fresno County Federal Credit Union to report the account as described herein.
97. As a result of Equifax, Inc.'s violation of 15 U.S.C. § 1681e(b), Plaintiff suffered actual damages, including but not limited to:, damage to reputation, embarrassment, humiliation, and other mental and emotional distress.

Willfulness

98. The violations described herein by Equifax, Inc. were willful, specifically the Credit Bureaus including defendant Equifax, Inc. have intentionally and purposefully set up a system where inaccuracies are not only probable but inevitable.

- 1 99. Equifax, Inc. intentionally sends consumer disputes to employees who do not live within
2 the continental United States.
- 3 100. This is intentionally done to hide and or subvert a consumer's ability to confront
4 individual directly responsible for approving accurate reporting.
- 5 101. These employees for Defendant Equifax, Inc. receive little to know training concerning
6 how to accurately report consumer debt.
- 7 102. Instead these employees are simply instructed to parrot whatever information a data
8 furnisher provides regardless of whether or not that information is accurate.
- 9 103. Equifax, Inc. employees are regularly expected to review and approve over 90 disputes
10 per day rendering less than five minutes to review, investigate, and respond to each
11 dispute received.
- 12 104. Equifax, Inc. has intentionally setup this system in order to undermine, hide, and
13 otherwise frustrate consumers' ability to properly dispute and correct credit reports.

14 **Damages**

- 15 105. As a result of Equifax, Inc.'s violation of 15 U.S.C. § 1681e(b), Plaintiff suffered actual
16 damages, including but not limited to: loss of creditworthiness, damage to reputation,
17 embarrassment, humiliation, and other mental and emotional distress.
- 18 106. The violations by Equifax, Inc. were willful, rendering each of the Defendants
19 individually liable for punitive damages in an amount to be determines by the Court
20 pursuant to 15 U.S.C. § 1681n. In the alternative, Equifax, Inc. was negligent, which
21 entitles Plaintiff to recovery under 15 U.S.C. § 1681o.
- 22 107. Plaintiff is entitled to recover actual damages, statutory damages, costs and attorney's
23 fees from Equifax, Inc. in an amount to be determines by the Court pursuant to 15 U.S.C.
24 § 1681n and § 1681o.

25 **SECOND CAUSE OF ACTION**

26 (Violation of Fair Credit Reporting Act 15 U.S.C. § 1681s-2(b))
27 Against Defendants and Does 1-100)

28 **Fresno County Federal Credit Union –Failure to Reinvestigate.**

108. Plaintiff realleges and incorporates herein the allegation in each and every paragraph
above as though fully set forth herein.

1 109. 15 USC 1681s-2(b) and 15 USC 1681i-(a)1 prohibits furnishers from providing any
2 information relating to a consumer to any consumer reporting agency if the person knows
3 or has reasonable cause to believe that the information is inaccurate or misleading and
4 requires a furnisher to update and or correct inaccurate information after being notified
5 by a consumer reporting agency of a dispute by a consumer.

6 110. Defendant Fresno County Federal Credit Union violated section 1681s-2(b) by failing to
7 conduct a reasonable investigation and re-reporting misleading and inaccurate account
8 information.

9 111. Equifax, Inc. provided notice to the Defendants that Plaintiff was disputing the inaccurate
10 and misleading information but Fresno County Federal Credit Union failed to conduct a
11 reasonable investigation of the information as required by the FCRA.

12 112. Based on Plaintiff's dispute, Defendants should have known their accounts were included
13 in Plaintiff's Chapter 13 plan of reorganization and NOT Charged off

14 113. Plaintiff alleges Defendants did not review well established industry standards for credit
15 reporting and or its reporting on Plaintiff's account included in Chapter 13.

16 114. If Defendants had reviewed such standards Defendants would have seen their reporting
17 was not in compliance and consequently inaccurate and or incomplete.

18 115. Such an investigation would be unreasonable.

19 116. Plaintiff also alleges that Defendants did not investigate whether Plaintiff filed for
20 bankruptcy, whether their accounts were included, the terms of the plan, or whether or
21 not the terms had been approved.

22 117. The lack of investigation is unreasonable.

23 **Willfulness**

24 118. Plaintiff further alleges that Defendant has not properly trained those directly
25 investigating disputes on Metro 2 generally or credit reporting industry standards or how
26 to report an account included in bankruptcy and as such have developed reckless policies
27 and procedures.

28 119. Plaintiff further alleges that Defendant KNEW the account was not Charged off but
reported the account Charged off in May –July of 2016 to specifically undermine
Plaintiff's reorganization and diminish Plaintiff's credit worthiness.

Equifax, Inc. – Failure to Reinvestigate Disputed Information 15 USC 1681i-(a)1.

120. Plaintiff realleges and incorporates herein the allegation in each and every paragraph above as though fully set forth herein.

121. After Plaintiff disputed the accounts mentioned above, Equifax, Inc. was required to conduct a reasonable investigation and to delete any information that was not accurate under 15 USC 1681i-(a)1.

122. The most basic investigation required Equifax, Inc. to send all relevant information via an ACDV to the furnishers which they did not do.

123. Thus Equifax, Inc. failed to conduct a reasonable investigation and failed to correct the misleading and or inaccurate statements on the account within the statutory time frame or at all.

124. In the alternative Plaintiff alleges that Equifax, Inc. has its own independent duty to conduct a reasonable investigation 15 USC 1681i-(a)1.

125. Each CRA is not a passive entity bound to report whatever information a DF provides.

126. Plaintiff alleges that Equifax, Inc. is readily familiar with Metro 2 guidelines and credit reporting industry standards.

127. **In fact, Equifax, Inc. sponsors and authorizes workshops hosted by the CDIA that teach the following to DFs:**

- a. Do not report delinquencies post petition pre discharge in the payment history section regardless of Chapter 7 or Chapter 13. Instead report the Metro 2 indicator D.
- b. In Chapter 13 cases do not report past due balances post confirmation.
- c. In Chapter 13 cases do not report balances that are inconsistent with the terms of the Chapter 13 plan.
- d. In Chapter 13 cases do not report monthly payments that are inconsistent with the terms of the Chapter 13 plan.
- e. The above reporting is the correct and accurate way to report debts included in consumer bankruptcy filings.

1 128. Given the aforementioned, Plaintiff alleges that Equifax, Inc. can and does suppress
2 inaccurate information from being reported when DFs provide inaccurate
3 information.

4 129. Equifax, Inc. can and does instruct DFs on how to properly report certain accounts
5 from time to time upon request from the DF.

6 130. Equifax, Inc. failed to conduct a reasonable investigation because any basic
7 investigation would have uncovered that certain DFs were not following credit
8 reporting industry standards.

9 131. Equifax, Inc. would have known that Plaintiff filed for Chapter 13 based on multiple
10 other accounts reporting as much.

11 132. Equifax, Inc. would have known that Plaintiff's plan had been confirmed based on
12 multiple other accounts reporting as much.

13 133. Equifax, Inc. would have known that the account was not Charged off prior to
14 Plaintiff filing bankruptcy.

15 134. Equifax, Inc. therefore did not do the most basic investigation regarding credit
16 reporting industry standards otherwise the aforementioned would have been
17 uncovered.

18 **THIRD CAUSE OF ACTION**

19 (Violation of Fair Credit Reporting Act 15 U.S.C. § 1681i(a)(2)(A))
20 Against Defendants and Does 1-100)

21 **Equifax, Inc. – Failure to send dispute**

22 135. Plaintiff realleges and incorporates herein the allegation in each and every paragraph
23 above as though fully set forth herein and pleads in the alternative

24 136. Equifax, Inc. violated 15 U.S.C. § 1681i(a)(2)(A) by failing to provide Defendants with
25 all the relevant information regarding Plaintiff's disputes.

26 137. As a result of Equifax, Inc.'s violation of 15 U.S.C. § 1681i(a)(2)(A), Plaintiff suffered
27 actual damages, including but not limited to: damage to reputation, embarrassment,
28 humiliation, and other mental and emotional distress.

138. The violations by Equifax, Inc. were willful, rendering each of the Defendants
individually liable for punitive damages in an amount to be determined by the Court

pursuant to 15 U.S.C. § 1681n. In the alternative, Equifax, Inc. was negligent, which entitles Plaintiff to recovery under 15 U.S.C. § 1681o.

139. Plaintiff is entitled to recover actual damages, statutory damages, costs and attorney's fees from Equifax, Inc. in an amount to be determines by the Court pursuant to 15 U.S.C. § 1681n and § 1681o.

FOURTH CAUSE OF ACTION

(Violation of Fair Credit Reporting Act 15 U.S.C. § 1681i(a)(4))
Against Defendants and Does 1-100)

Equifax, Inc. – Failure to Review and Consider All Relevant Information.

140. Plaintiff realleges and incorporates herein the allegation in each and every paragraph above as though fully set forth herein.

141. Equifax, Inc. violated 15 U.S.C. § 1681i(a)(4) by failing to review and consider all relevant information submitted by Plaintiff.

142. As a result of Equifax, Inc.'s violation of 15 U.S.C. § 1681i(a)(4), Plaintiff suffered actual damages, including but not limited to: damage to reputation, embarrassment, humiliation, and other mental and emotional distress.

143. The violations by Equifax, Inc. were willful, rendering each of the Defendants individually liable for punitive damages in an amount to be determines by the Court pursuant to 15 U.S.C. § 1681n. In the alternative, Equifax, Inc. was negligent, which entitles Plaintiff to recovery under 15 U.S.C. § 1681o.

144. Plaintiff is entitled to recover actual damages, statutory damages, costs and attorney's fees from Equifax, Inc. in an amount to be determines by the Court pursuant to 15 U.S.C. § 1681n and § 1681o.

FIFTH CAUSE OF ACTION

(Violation of Fair Credit Reporting Act 15 U.S.C. § 1681i(a)(5)(A))
Against Defendants and Does 1-100)

Equifax, Inc. – Failure to Delete Disputed and Inaccurate Information.

145. Plaintiff realleges and incorporates herein the allegation in each and every paragraph above as though fully set forth herein.

- 1 146. Equifax, Inc. violated 15 U.S.C. § 1681i(a)(5)(A) by failing to promptly delete the
2 dispute inaccurate items of information from Plaintiff's credit file or modify the item of
3 information upon a lawful reinvestigation.
- 4 147. As a result of Equifax, Inc.'s violation of 15 U.S.C. § 1681i(a)(5)(A), Plaintiff suffered
5 actual damages, including but not limited to: damage to reputation, embarrassment,
6 humiliation, and other mental and emotional distress.
- 7 148. The violations by Equifax, Inc. were willful, rendering each of the Defendants
8 individually liable for punitive damages in an amount to be determines by the Court
9 pursuant to 15 U.S.C. § 1681n. In the alternative, Equifax, Inc. was negligent, which
10 entitles Plaintiff to recovery under 15 U.S.C. § 1681o.
- 11 149. Plaintiff is entitled to recover actual damages, statutory damages, costs and attorney's
12 fees from Equifax, Inc. in an amount to be determines by the Court pursuant to 15 U.S.C.
13 § 1681n and § 1681o.

14 **SIXTH CAUSE OF ACTION**

15 (Violation of California Consumer Credit Reporting Agencies Act
16 California Civil Code § 1785.25(a) Against Defendants and Does 1-100)

17 **Fresno County Federal Credit Union – Reporting Inaccurate Information to**
18 **Equifax, Inc.**

- 19 150. Plaintiff realleges and incorporates herein the allegation in each and every paragraph
20 above as though fully set forth herein.
- 21 151. In the regular course of its business operations, Defendants routinely furnish
22 information to credit reporting agencies pertaining to transactions between Defendants
23 and Defendant's consumers, so as to provide information to a consumer's credit
24 worthiness, credit standing and credit capacity.
- 25 152. Defendants intentionally and knowingly reported misleading and inaccurate account
26 information to Equifax, Inc. that did not comport with well-established industry
27 standards.
- 28 153. Plaintiff alleges that Defendants re-reported the information contained herein in
violation of California Civil Code § 1785.25(a).
154. Plaintiff also alleges that Defendants had reason to know that the information reported
on Plaintiff's accounts were misleading, inaccurate, incomplete, and did not comport
with well-established credit reporting industry standards.

155. Plaintiff alleges that Defendants had reason to know that by not comporting with well-established industry standards lenders will draw a more negative inference with respect to Plaintiff's credit worthiness.

156. Plaintiff alleges that the bankruptcy notices, disputes letters from all three credit reporting agencies, the consumer data industry resource guide, and results of its investigation should have provided notice to Defendants of its misleading and inaccurate reporting as well as being noticed of the plan confirmation and proof of claim forms sent by the U.S. Bankruptcy Court.

157. Defendant failed to notify Equifax, Inc. that the information Defendant re-reported was inaccurate before the end of 30 business days, in violation of California Civil Code § 1785.25(a).

158. Defendants' communications of false information, and repeated failures to investigate, and correct their inaccurate information and erroneous reporting were done knowingly, intentionally, and in reckless disregard for their duties and Plaintiff's rights.

159. As a direct and proximate result of Defendants' willful and untrue communications, Plaintiff has suffered actual damages including but not limited to inability to properly reorganize under Chapter 13, reviewing credit reports from all three consumer reporting agencies, time reviewing reports with counsel, sending demand letters, diminished credit score, and such further expenses in an amount to be determined at trial.

Wherefore, Plaintiff prays for judgment as hereinafter set forth.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for judgment as follows:

1. For preliminary and permanent injunctive relief to stop Defendants from engaging in the conduct described above;
2. Award statutory and actual damages pursuant to 15 U.S.C. § 1681n and California Civil Code § 1785.31;
3. Award punitive damages in order to deter further unlawful conduct pursuant to 15 U.S.C. § 1681n; and California Civil Code § 1785.31
4. Award attorney's fees and costs of suit incurred herein pursuant to 15 U.S.C. §

1 1681n & o; California Civil Code § 1785.31;

2 5. For determination by the Court that Creditor's policies and practices are
3 unlawful and in willful violation of 15 U.S.C. § 1681n, et seq.; and

4 6. For determination by the Court that Creditor's policies and practices are
5 unlawful and in negligent violation of 15 U.S.C. § 1681o;

6
7 Dated: March 31, 2017

SAGARIA LAW, P.C.

/s/ Elliot Gale, Esq.

Scott Sagaria, Esq.

Elliot Gale, Esq.

Attorneys for Plaintiff

10 **DEMAND FOR JURY TRIAL**

11
12 Plaintiff hereby demands trial of this matter by jury.

13
14 Dated: March 31, 2017

SAGARIA LAW, P.C.

/s/ Elliot Gale, Esq.

Scott Sagaria, Esq.

Elliot Gale, Esq.

Attorneys for Plaintiff